

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

David Earl Wattleton,

Plaintiff,

v.

A. Simcox, and
Dr. S. Stanton,

Defendants.

Civil No. 11-3430 (JNE/SER)
ORDER

This case is before the Court on a Report and Recommendation issued by the Honorable Steven E. Rau, United States Magistrate Judge, on December 28, 2011. The magistrate judge recommended that Plaintiff's application for leave to proceed in forma pauperis ("IFP") be denied and that the action be summarily dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Plaintiff did not object, but instead filed a Motion for Leave to File Amended Complaint. The Court grants Plaintiff's motion to file the amended complaint. The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). Based on that review, the Court adopts the Report and Recommendation. An IFP application will be denied, and the action will be dismissed, if the IFP applicant has filed a pleading that fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2)(B)(ii); *Atkinson v. Bohn*, 91 F.3d 1127, 1128 (8th Cir. 1996) (*per curiam*). Despite Plaintiff's inclusion of "additional facts" in his Amended Complaint, it nevertheless fails to state a claim on which relief may be granted. Thus, for the same reasons as articulated in the Report and Recommendation, Plaintiff's IFP application is denied and the action summarily dismissed. Therefore, IT IS ORDERED THAT:

1. Plaintiff's Motion for Leave to File Amended Complaint [Docket No. 5] is GRANTED.
2. Plaintiff's application for leave to proceed in forma pauperis [Docket No. 2] is DENIED.

3. This action is SUMMARILY DISMISSED without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 24, 2012

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge